**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT :**

**THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN**

**MONDAY, THE 5TH NOVEMBER 2007 / 14TH KARTHIKA 1929**

**Con.Case(C).No. 820 of 2006(S)**

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**AGAINST THE JUDGEMENT/ORDER IN WPC.17487/2005 Dated 02/09/2005**

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**PETITIONER/ PETITIONER**

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**V.B.BEENA, AGED 39 YEARS,**
**W/O.M.P.SIDDARTHAN,**
**MUTHEDATH (H),**
**KANDANASSERY, TRICHUR.**

**BY ADV. SMT.G.SUMA**

**RESPONDENTS/RESPONDENTS 2 TO 4:**

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**1. T.PAUL,**
**REPRESENTING PRIYADARSHINI CO-OPERATIVE HOSPITAL LTD. (REG. NO. 756),**
**P.O.ERANELLOOR, TRICHUR DISTRICT.**

**2. K.P.VISHWANATHAN,**
**S/O.KALLAYIL PANKAN, AGED 70 YEARS,**
**PRESIDENT, PRIYADARSHINI CO-OPERATIVE HOSPITAL LIMITED,**
**ERANALLOOR.P.O, TRICHUR.**

**3. T.PAUL,**
**S/O.THEKKEKARA KUNJIPAVU,**
**AGED 55, SECRETARY,**
**PRIYADARSHINI CO-OPERATIVE HOSPITAL LTD.,**
**ERANALLOOR.P.O, TRICHUR.**

***4. THE CHIEF SECRETARY TO THE GOVERNMENT,**
**GOVERNMENT OF KERALA,**
**GOVT. SECRETRIAT, THIRUVANANTHAPURAM.**

***ADDL. R4 IS IMPLEADED AS PER ORDER DATED 13/07/2007 IN COC NO. 820/2006.**

**BY ADVS. SRI.G.SREEKUMAR (CHELUR) -- R2**
**SPL.GOVT.PLEADER**
**SRI.V.G.ARUN**
**SRI.T.R.HARIKUMAR**
**SMT.A.G.ANEETHA(SPL.GP.CO-OP)SOCIETIES**

**THIS CONTEMPT OF COURT CASE (CIVIL) HAVING BEEN FINALLY HEARD ON 05/11/2007, ALONG WITH COC NO. 923 OF 2006 COC NO. 982 OF 2006 THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

**THOTTATHIL B.RADHAKRISHNAN, J.**

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Cont. case (C).Nos.820, 923 & 982 OF 2006
& W.P(C).Nos.17487, 7725 & 17489 OF 2005

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Dated this the 5th day of November, 2007

**JUDGMENT**

Captioned writ petitions, though disposed of, and not listed today, are taken up suo motu. These contempt of court cases have been filed alleging that the undertakings given to this Court, as are recorded in the judgments, have not been complied with.

2. Priyadarsini Co-operative Hospital Ltd. is a co-operative society which runs a hospital. It had taken deposits from different persons, including the writ petitioners (applicants in the contempt of court cases). Such persons have obtained awards under the Kerala Co-operative Societies Act against that society. The writ petitions which led to the judgments were filed on the allegation that the departmental officials are not executing the awards, in spite of appropriate applications. Certain allegations as to political interference and executive excesses are attributed.

3. Though it was submitted on behalf of the society, during the course of the writ petitions, that the awards would be satisfied in a time bound manner and such undertakings have been recorded, with the passage of time, it is crystal clear that no useful purpose would be served in proceeding under the Contempt of Courts Act against the respondents herein, particularly because, it is beyond their reach to stand by the undertakings given. It is also apparent that the judgments, on the basis of which, these contempt of court cases have been filed, were issued only on the basis of the undertakings and without deciding any further on the merits or on the liabilities of the society.

4. During the pendency of these proceedings, it become apparent that the society had taken a decision to sell off certain extents of its land and it therefore, requested the Registrar of Co-operative Societies to grant permission to do so. Whether such permission is required in terms of the Statute is a different matter. But the learned special Government Pleader of Co-

operation submits that the Registrar is not willing to accede to the request of the society. At the same time, it has also been noticed that one of the major creditors of the society is the Thrissur District Co-operative Bank and accordingly, that institution was sought to be heard through its standing counsel. In the mean while, it also appears that the Board of Thrissur Co-operative Bank has been superseded by the statutory authorities, which decision stands stayed by this Court in separate proceedings.

5. Following the directions issued by this Court, the Chief Secretary has placed a counter affidavit, which, among other things, discloses that the Government do not intend to take over the hospital run by the society, which is stated to be housed in a building having more than 45000 sq.ft. area, catering to the need of various sections of the society in Thrissur district. The affidavit placed by the Chief Secretary explicitly shows, among other things, that the society has extensive assets and is some

how running the hospital, though it is stated that many of the members of the staff are not paid their salaries in time.

6. The situations noticed above is one of stalemate in the field of the commercial interest of the society; in the interest of the public, having regard to the services that are being offered through the hospital and also the sky rocketing arrears by way of outstandings on loan accounts, which would only keep soaring if matters are left where it is.

7. In the aforesaid circumstances, these contempt of court cases are disposed of and the judgments issued on writ petitions are suo motu reviewed and recalled and those cases are re-opened. Thrissur District Co-operative Bank is impleaded as additional respondent in all writ petitions. After hearing the preliminary submissions on the basis of such impleadment, it is directed that if the additional respondent desires to place any

material on record, that shall also be placed before the next date of hearing.

Post the writ petitions on 19.11.2007

Sd/-

**THOTTATHIL B.RADHAKRISHNAN,**
**Judge**

kkb.